

May 17, 2018

Mr. Devin Leary
Human & Rohde, Inc.
516 Virginia Avenue
Towson, MD 21286

Re: Reisterstown Car Wash and Retail Center at 10620 Reisterstown Road
Forest Conservation Variance
Tracking # 04-18-2727

Dear Mr. Leary:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by this Department of Environmental Protection and Sustainability (EPS) on May 11, 2018. This request would allow removal of two specimen trees and impact to one other just offsite to redevelop a 2.7-acre residential property as a car wash and retail center. The specimen trees to be removed are 42-inch DBH and 32-inch DBH Norway Spruces, both in lawn. The specimen tree adjacent to the site is a 38-inch DBH tulip poplar in good condition. The approximately 25% portion of its critical root zone to be disturbed by the proposed redevelopment has been historically impacted by the existing garage and driveway. Therefore, it appears that impacts to this specimen tulip poplar would not be lethal.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of all beneficial use of this property. The petitioner is seeking to construct a car wash and retail center. Requiring retention of the two nonnative specimen trees would significantly constrain development of the site, especially given that one is directly in the path of the proposed entrance to the site. However, the site has been improved with an existing residence, and the site could possibly be redeveloped residentially while retaining the trees. Therefore, denying the variance would not deprive the petitioner of all beneficial use of the property. Consequently, we find that this criterion has not been met.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the

neighborhood. The need to remove the specimen trees is due to unique circumstances associated with their location relative to the buildable area rather than general conditions in the neighborhood. Therefore, we find the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. Granting the variance would result in a commercial redevelopment consistent with the surrounding development pattern. Therefore, we find that granting the variance will not alter the essential character of the neighborhood; thus, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are no streams, wetlands, floodplains or associated buffers on or near the proposed subdivision. Therefore, we find that granting the variance will not adversely affect water quality and that this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. The petitioner has taken no actions necessitating this variance prior to its request. Therefore, this criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing removal of two nonnative specimen trees would be consistent with the spirit and intent of the Forest Conservation Law given that the specimen tree just offsite will be protected during construction. Therefore, this criterion has been met.

Based on our review, this Department finds that all of the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code with no mitigation since the specimen trees to be removed are nonnative. However, the following note must be on all plans and plats for this subdivision:

“A special variance to the Forest Conservation Law was granted by Baltimore County Dept. of Environmental Protection & Sustainability on May 17, 2018 to allow removal of two nonnative specimen trees. The spirit and intent of this Law shall be met through the 0.8 acres of required afforestation.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

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If there are any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely,

David V. Lykens
Deputy Director

DVL/ges

- c. Rick Richardson, Richardson Engineering, LLC
Marian Honeczy, Maryland Department of Natural Resources